

*Sala Naambwe and Yvette Nimenya v.
Smithfield Foods, Inc.*

Yvette Nimenya
May 23, 2018



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Min-U-Script® with Word Index

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1 A Seven years old.

2 Q Seven?

3 THE INTERPRETER: Yeah.

4 BY MS. CALEM:

5 Q And Teddy?

6 A Oh, tomorrow -- Tresor will be seven tomorrow.

7 Q Congratulations.

8 A (In English, without translation of question)

9 Thank you.

10 (Through interpreter) Teddy's four years old.

11 Q When were you married?

12 A August 2009.

13 Q What's your date of birth?

14 A October 25, 1987.

15 Q What country are you from?

16 A Rwanda is where I was born.

17 Q When did you first come to the United States?

18 A July 28th, 2007.

19 Q Did you move to South Dakota at that time?

20 A We arrive first in Arizona, and then I moved to here,
21 when we got married, with my husband in 2009.

22 Q Did you have a job when you were in Arizona?

23 A Yes, I had a job.

24 Q What was that job?

25 A It was dishwashing.

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1 Q What was your first position at Smithfield?

2 A If you say position, are you asking department or the
3 grade or -- is that what you --

4 Q The department and the specific job you had.

5 A I started with dishwashing and clipping.

6 (In English) Smoked meat wash.

7 THE INTERPRETER: Smoked meat --

8 MS. CALEM: Smoked meat wash?

9 THE INTERPRETER: -- wash, yeah.

10 THE WITNESS: (In English) Yeah.

11 BY MS. CALEM:

12 Q That was the first department you were assigned to?

13 A (No English response after translation of question)

14 Q You're saying there was a dishwashing job that you did
15 there?

16 A (In English) Oh, I'm sorry. (Speaking Swahili)

17 Q Dishwashing was in Arizona?

18 A (In English) Yeah. So that smoked meat wash, I was
19 clipping.

20 THE INTERPRETER: She -- in the smoked meat wash
21 she was clipping.

22 I don't know what she say.

23 BY MS. CALEM:

24 Q Okay. Clipping. And when you say you were clipping,
25 were you clipping hams to something?

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1 A Yes, clipping ham.

2 Q And what are you clipping the ham onto?

3 A With a machine.

4 Q Can you describe what you actually do when you're
5 clipping?

6 THE INTERPRETER: She said there would be one
7 person standing here and that she would be standing
8 here. So this person on the other side --

9 THE WITNESS: (Speaking Swahili)

10 THE INTERPRETER: -- would put --

11 (Speaking Swahili)

12 THE WITNESS: (In English) Yeah, socks.

13 THE INTERPRETER: They would put it in socks?

14 I don't know what --

15 BY MS. CALEM:

16 Q Socks, just like a net?

17 A (In English) Net, yeah.

18 THE INTERPRETER: They would put it in a net, and
19 they will send to the next person. The next person
20 will put in machine and machine will -- clip?

21 THE WITNESS: (Speaking Swahili)

22 THE INTERPRETER: She said the person on the other
23 side would put in the net, the net, so -- and then she
24 will -- it's pass to her, and then she will get the
25 meat and put in a machine, and then after she put in a

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1 machine, then they would just toss on the table.

2 BY MS. CALEM:

3 Q And the machine clips the net closed; is that right?

4 THE INTERPRETER: Yeah, she is the one who close

5 it with a clip in and then she would toss on the table.

6 BY MS. CALEM:

7 Q All right. I think I understand. And what department
8 is smoked meat wash? Do you know the department
9 number?

10 A 19.

11 Q What shift did you work on when you first arrived at
12 Smithfield?

13 A It was the night shift.

14 Q How long did you work on the night shift?

15 A I don't recall the year or month that I switch, because
16 I was -- by that time I was -- after I deliver -- I had
17 my first child -- because my husband was working night
18 and I was working night, so we figured it was difficult
19 for to us find a day care, so I decided to switch to
20 days, I went to talk to Aaron [sic] about it. So Aaron
21 helped me to find a day shift job. But I don't
22 remember the year and month -- exact year and month.

23 Q And who is Aaron?

24 THE WITNESS: (In English) Helen.

25 THE INTERPRETER: Helen, not Aaron. Sorry.

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1 BY MS. CALEM:

2 Q Helen. And this is the woman at DSS?

3 A Yes, that's the woman who interview me.

4 Q And you found a day shift job at Smithfield?

5 A Yes.

6 Q Was it in the same department?

7 A Yes, same department.

8 Q Have you been in department 19 since you started work
9 at Smithfield?

10 A Yes.

11 Q Do you have a specific position that you're assigned to
12 all the time?

13 A In those years that I work there, I -- in my department
14 there was a time where they -- like, they lay off
15 people because of -- I don't know.

16 THE INTERPRETER: She doesn't know the reason.

17 And at that time when that happened, they would
18 transfer different employees to different department.
19 Like, they would transfer them all over the place.
20 Sometimes they would tell me to come in the morning,
21 evening, afternoon, or whenever they found some work
22 for me to do. So I been all over that -- all over the
23 place in that department. I be working all. So I
24 cannot say that I have specific place that I stay for,
25 like, it's my own job.

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1 this year have been different. Nobody have been -- she
2 hasn't seen anybody sent home or get laid off.

3 BY MS. CALEM:

4 Q What was your hourly rate when you started at
5 Smithfield?

6 THE INTERPRETER: She think it was \$12.

7 BY MS. CALEM:

8 Q And what is it now?

9 A For what I know, it was 16.05, but they say they have
10 increase 25 cent.

11 THE INTERPRETER: But she hasn't checked yet and
12 to make sure that that is right -- correct, but for
13 what she knows, right now it is 16.05.

14 BY MS. CALEM:

15 Q During your time at Smithfield has your hourly rate
16 ever gone down?

17 THE INTERPRETER: Say that again?

18 MS. CALEM: During the time she's worked at
19 Smithfield, has her hourly rate ever decreased, gone
20 down?

21 THE WITNESS: (Through interpreter) From 2011
22 to --

23 (In English) 2013.

24 (Through interpreter) 2011 to 2013 I was working
25 at grade 2, that I wasn't paid for grade 2. I was paid

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1 to different grade. So I ask union. They told me, you
2 should get paid for that grade that you worked. And
3 when I asked for the reason --

4 (Speaking Swahili)

5 THE INTERPRETER: She said there was a time for
6 two years, from 2013, she was working on a certain
7 grade and then she was paid a different grade level,
8 and she asked the supervisor. The supervisor told her,
9 because you haven't signed for that job, you're not
10 supposed to get paid for that grade.

11 And then when she turn to ask a union member, they
12 tell her, since you are working that grade, you should
13 get paid for grade 2. But she was kind of confused why
14 and -- why am I not getting paid for grade 2, why am I
15 working there every single day.

16 So that was in 2011, she said, to 2013.

17 MS. CALEM: But that wasn't my question. My
18 question was, during the time she's worked at
19 Smithfield, has her compensation, her hourly rate, ever
20 gone down?

21 THE WITNESS: No, they haven't.

22 BY MS. CALEM:

23 Q Thank you. Who was your supervisor when you first
24 started working in the smoked meat wash department?

25 A When I first started in smoked meat wash, was

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1 overnight, my supervisor name was Adam.

2 Q This was during the night shift?

3 A Yes, that was during the night shift.

4 Q And do you remember when it was that you started on the
5 day shift, roughly the year?

6 THE INTERPRETER: She doesn't recall exactly the
7 year, but she suggest, like, 2012 or 2013, in those two
8 years.

9 BY MS. CALEM:

10 Q And who was your supervisor when you first started
11 working on the day shift?

12 A (In English) Gary Loger. (Through interpreter) Gary
13 Loger.

14 Q Was he your only supervisor?

15 A He was, but the other name is Russ.

16 Q Russ Hultman?

17 A (In English, without translation of question) Yes.

18 Q They were both supervisors in department 19?

19 A Yes.

20 Q Were they both there at the same time?

21 A Yes.

22 Q Do you know who they reported to?

23 A Because they changing people's positions, so I don't
24 remember who they report to.

25 Q Okay. In your job at Smithfield, did you get benefits?

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1 first started at the company.

2 A (In English) Yes. Yeah, yeah. Sorry. I was
3 confused. I thought maybe is like kind of riddle maybe
4 somebody shows me. That's was on my mind. I say, I
5 don't see this video.

6 Q Yeah, and that was my fault. I should have made clear
7 that we were talking about the orientation when you
8 first started.

9 A (In English) Okay. Thank you. Yeah, I do.

10 Q Okay. You did see --

11 A (In English) Yeah.

12 Q -- the video. Okay. What do you remember being told
13 about sexual harassmt when you started work at
14 Smithfield?

15 A They talk a lot about inappropriate touching or
16 inappropriate kind of language, speaking to somebody
17 using sexual language or touching somebody where she or
18 he don't want you to do it -- to do so. They talk
19 a lot about this concept of sexual harassmt in that
20 video.

21 THE INTERPRETER: She does recall this.

22 BY MS. CALEM:

23 Q Since you started at Smithfield, after the orientation,
24 have you had any training about sexual harassmt?

25 A Yes, I had a training.

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1 Q How many times?

2 A On this time be, that's when they talk a lot -- they
3 emphasize a lot of sexual harassment. That's when we
4 heard it and get a lot of acknowledgement about it,
5 but -- and then after -- afterward, they don't really
6 talk about sexual harassment, but they do pass by
7 saying, you know, sort of inappropriate touching is not
8 allowed or inappropriate language not allowed, but
9 a lot of time it's based on safety meeting. So...

10 Q These things are talked about during safety meetings
11 sometimes?

12 THE INTERPRETER (before translating): Yeah,
13 sometimes they -- whoever was conducting that meeting
14 would suggest something like that.

15 BY MS. CALEM:

16 Q How often do you have a safety meeting?

17 A Every month. But not every month they talk about
18 sexual harassment. The main cause will be safe
19 environment at safety meeting. So...

20 Q Sure. But sometimes during the safety meeting there
21 will be a talk about respectful conduct and prohibition
22 against sexual harassment?

23 A It seems like if there was somebody had sort of
24 question, if they ask, they will bring -- they will
25 bring it up and they will explain.

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1 A Yes.

2 Q Before that incident in February of 2016, did anyone at
3 the company say anything to you that was racist?

4 THE INTERPRETER: She don't get your question.

5 Like, what do you mean, like, racist? Anybody call

6 her --

7 BY MS. CALEM:

8 Q Well, Scott Genzler made racist statements to you,
9 didn't he?

10 A Yes.

11 Q And before he did that, did anybody else do anything
12 like that?

13 A Nobody has ever tell me -- made such a comment or tell
14 me anything, before that incident with Scott.

15 Q Are there people working at Smithfield from many
16 different African countries?

17 A Yes.

18 Q Are there any other people from Rwanda?

19 A No, none that I work with, but -- there might be in the
20 company, but I don't work with them.

21 Q Okay. And are there employees in the company who speak
22 Spanish?

23 A Yes, a lot of them.

24 Q And how many different languages have you heard spoken
25 in the company?

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1 A There is so many languages that I can't --
2 The Sudanese speak their own language. Ethiopian
3 speak their own language. Spanish speak their own
4 languages. Like, you got all of these people speak
5 different languages so I cannot recall how many
6 languages that I heard.

7 Q All right. Do -- besides you and Sala, are there other
8 people who speak Swahili?

9 A On my depart -- (Speaking Swahili)
10 Where we are, we just two of us speaking Swahili,
11 but there are some others speak -- some others speaking
12 around in the company.

13 Q All right. Now, I want to talk about the incident
14 involving Scott Genzler, and I just want to mark a
15 couple more exhibits before we go on.

16 (Exhibits 5-6 are marked for identification.)

17 BY MS. CALEM:

18 Q You've been handed what's been marked Exhibits 5 and 6.

19 MS. POCHOP: Which one is 5?

20 MS. CALEM: The complaint is 5.

21 BY MS. CALEM:

22 Q All right. Have you seen Exhibit 5 before, the
23 complaint?

24 A Yes, I seen it.

25 Q Have you read it?

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1 THE INTERPRETER: She say, because she didn't have
2 a lawyer so it took her a while, more than 30 days to
3 find a lawyer.

4 BY MS. CALEM:

5 Q All right. Well, let's go back to the incident with
6 Scott. What day of the week did this incident occur?

7 A It was in February 2016.

8 Q Do you remember if it was a Friday? Saturday?

9 A It was Friday.

10 Q What time of day was it?

11 A I don't remember exactly -- after the break. The break
12 was done. I don't remember if it was a lunch break or
13 breakfast break.

14 Q Well, you were working on the line when this happened,
15 right?

16 A Yes, we're on the line.

17 Q And are you on the first shift when this happened?

18 A (In English) Yeah, day shift.

19 Q Day shift? What time does day shift start?

20 A (In English) 7:00 o'clock. (Through interpreter)
21 7:00 a.m.

22 Q And what time does it usually end?

23 A It depend on the hours. If you work 9 hours, it end at
24 4:30, and if you work 10 hours, it end at 5:30.

25 Q Okay. Let me just go back to Exhibit 6 for one minute.

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1 Did you ever make any changes to this?

2 (Discussion between the interpreter and the
3 witness.)

4 MS. CALEM: Let me clarify. After she signed
5 this --

6 BY MS. CALEM:

7 Q After you signed this, did you ever make any changes to
8 it?

9 A No, I didn't change anything.

10 Q Did you ever go back to the EEOC after you signed this
11 to file another charge?

12 A No, I don't recall doing it. No.

13 Q Okay. Let's go back. This was a Friday in February.
14 And what line were you working on?

15 A Honey line.

16 Q And were you clipping?

17 A Yes.

18 Q And who else was there?

19 A I was clipping and then Sala and the other lady, they
20 were open those --

21 THE INTERPRETER: She said socks, but I believe
22 the --

23 THE WITNESS: (In English) Nets.

24 THE INTERPRETER: Net? Nets?

25 MS. CALEM: Opening the nets?

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1 THE INTERPRETER (before translating): Yeah.

2 THE WITNESS: And then Scott was putting the
3 nets -- (In English) on the horn -- (Through
4 interpreter) On the horn.

5 MS. CALEM: On the horn.

6 THE INTERPRETER (before translating): Yeah.

7 MS. CALEM: Okay.

8 THE WITNESS: But there was a time when we would
9 change -- switch, me and this lady. The other lady
10 would come over, clipping, and I go open socks, the
11 net. Me and Sala would go there and open nets.

12 BY MS. CALEM:

13 Q And who was the other lady?

14 A (In English) Lorena Morales. (Through interpreter)
15 Lorena Morales.

16 Q Okay. So it was you, Sala, Scott, Lorena.

17 Was anybody else there?

18 A Vicki [sic] was upstairs.

19 Q Vicki? Or Becky.

20 A (In English, without translation of question) Becky.

21 THE INTERPRETER: Becky. Sorry.

22 BY MS. CALEM:

23 Q Becky Kaufman?

24 A (In English, without translation of question) Yeah.

25 Q She was upstairs?

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1 A (In English, without translation of question) Yeah,
2 two people.

3 Q Two people open up the nets?

4 A (In English, without translation of question) Uh-huh.

5 Q The ham goes into the net?

6 A (In English, without translation of question) Yes.

7 Q And then it gets clipped, right?

8 A (In English, without translation of question) Yes.

9 Q Okay. So everybody is working as a team on this,
10 right?

11 A (In English, without translation of question) Yeah.

12 Q Okay. And on that day you were working on this, you
13 don't remember what time of day it was?

14 A I don't remember exact the time, but it was after we
15 get off break.

16 Q After break?

17 THE INTERPRETER (before translating): Yeah, so
18 she doesn't remember if it was breakfast or lunch
19 break, she doesn't, but it was after break.

20 BY MS. CALEM:

21 Q It was after a break.

22 THE INTERPRETER: Yeah.

23 BY MS. CALEM:

24 Q Okay. Tell me what happened.

25 A We were working. Me, I was clipping, and then Scott

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1 was doing some -- net thing, and then he started
2 telling Sala --

3 THE INTERPRETER: Like how she said it, open --
4 BY MS. CALEM:

5 Q "Open the fucking socks like this"?

6 THE INTERPRETER (before translating): -- "like
7 this," yeah.

8 THE WITNESS: At that time we were working fine.
9 As a team, we were just fine, and then he started
10 cursing --

11 THE INTERPRETER: Like that, how she -- she said.
12 BY MS. CALEM:

13 Q He started cursing, he said, "Bitch, open the fucking
14 socks like this"?

15 THE INTERPRETER (before translating): Yeah.

16 THE WITNESS: (In English) Yeah.

17 (Speaking Swahili)

18 (Through interpreter) And then after a while we
19 switch with the other lady. I went to open the sock --
20 I mean, the net area.

21 (Speaking Swahili)

22 THE INTERPRETER: And then he continued cursing
23 like that, telling them, two of them -- because the
24 other lady was on clipping area and her -- she wasn't
25 opening net --

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1 BY MS. CALEM:

2 Q So you, Yvette, were opening the socks?

3 A Yeah, it was me and Sala, we were opening.

4 Q Sala was also opening the socks?

5 A Yes.

6 Q And then Scott kept cursing and saying, "Open the
7 fucking socks like this."

8 A (In English, without translation of question) Like
9 this, yes.

10 Q And what did he mean, "like this"?

11 A (In English) I don't know.

12 (Speaking Swahili)

13 (Through interpreter) I didn't know what he meant
14 because we were doing the job as usual, as how we
15 usually do it.

16 Q Was -- did he say anything like he thought you were
17 going too slowly?

18 A No, we weren't working slow, so -- because we were
19 doing the job as we normally would do.

20 Q Well, before the first time he said it, did he get into
21 an argument with anybody?

22 A No.

23 Q So all of a sudden he just said --

24 A (In English, without translation of question) Just --

25 Q -- open --

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1 A (In English, without translation of question) Yeah.

2 Q -- the fucking socks --

3 A (In English, without translation of question) Sock
4 like this. If you [inaudible] don't want to work good
5 job, just go back to where you coming from. Something
6 like that.

7 Q So then he also said, if you guys don't want to --

8 A (In English, without translation of question) Or
9 just --

10 Q -- do a good job --

11 A (In English, without translation of question) Yeah.
12 Go back and work for -- to your country.

13 (Reporter interrupts.)

14 MS. POCHOP: Only one person can talk at a time.

15 MS. CALEM: Yeah.

16 BY MS. CALEM:

17 Q I'm just going to clarify. I'm going to repeat what
18 you said, and then you tell me if I'm right or if I'm
19 wrong.

20 So then he said, "If you don't want to do a good
21 job, go back to your country"?

22 A (In English, without translation of question) Where
23 you coming from.

24 Q Where you came from?

25 A (In English, without translation of question) Africa.

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1 Q Africa?

2 A (In English, without translation of question) Yeah.

3 Q And this came out of nowhere? There was nothing going
4 wrong before he said this; is that right?

5 A (In English) No. (Through interpreter) Nothing.

6 No one -- no one -- he didn't get argument with
7 anybody, so it just came from out of nowhere.

8 Q And there was no delay on the line or any problem when
9 he said that?

10 A (In English) No. (Through interpreter) No, there
11 wasn't any delay or anything.

12 Q All right. So he said this, it sounds like, what,
13 three or four times?

14 A What happened was at that time -- he said it once, and
15 then I talk to Sala, say what's going on here, what
16 happened to this guy, we need to pray, pray about this.

17 And after he hear us speaking in our own
18 language --

19 THE INTERPRETER: He cursed them, like how she
20 said it.

21 MS. CALEM: You have to say it.

22 THE WITNESS: (In English, without translation)
23 He said, "Shut the fuck up your language. Just speak
24 English."

25

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1 BY MS. CALEM:

2 Q He said, "Shut the fuck up in your language --"

3 A (In English, without translation of question) Yes.

4 Q -- "just speak English."

5 A (In English, without translation of question) Then

6 Sala told her [sic], "This is a free country. We

7 can -- we can speak whatever we want." That's what

8 Sala reply him.

9 Q Okay. So Sala replied to him, "This is a free country.

10 We can speak however we want."

11 A (In English, without translation of question) Yes.

12 Q All right. And then what did he say?

13 A (In English, without translation of question) He don't

14 say nothing. (Through interpreter) He didn't say

15 anything. (In English) After that, they switch with

16 Becky.

17 Q After that, who switched --

18 A (In English, without translation of question) Then he

19 go on top.

20 Q He went on top?

21 A (In English, without translation of question) Yes.

22 Becky come, put the net on the horn.

23 Q All right.

24 A (In English, without translation of question) So then

25 he start pushing without watch, like (indicating), so

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1 Q Okay. So you don't remember --

2 A (In English, without translation of question) Because
3 that time we were in -- like, in trouble, you know.

4 (Speaking broken English)

5 (Reporter interrupts.)

6 Q Okay. You have to stop. You have to stop.

7 So, after that, they switched. You don't remember
8 how they switched, but she came down --

9 A (In English, without translation of question) Uh-huh.

10 Q -- and he went up on top?

11 A (In English, without translation of question) Yes.

12 Q And you said you thought you were in trouble? Is that
13 what you were saying?

14 A I say it was like -- I was scared.

15 Q You were scared.

16 A That's what I mean. Maybe I am in trouble or what's
17 going on? Because (speaking broken English). I was
18 scared.

19 Q All right. You were scared, you thought maybe you were
20 in trouble, why is he doing this, you don't know what's
21 going on --

22 A (In English, without translation of question) Yes.

23 Q -- is that right?

24 A (In English, without translation of question) Yeah.

25 Q Okay. Then Scott is up on top --

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1 A Uh-huh.

2 Q -- and you said he started pushing the hams through
3 very quickly?

4 A He didn't watch.

5 Q He didn't watch.

6 Why don't you tell him in Swahili. Okay?

7 A (In English, without translation of question) Oh.
8 (Speaking Swahili)

9 THE INTERPRETER: Okay. Because he -- like she
10 said before, how they do the job, they had to -- the
11 person who is up will have to watch the person who is
12 putting the net, so then -- so the next meat may not --
13 while the next meat is coming, so the person who is
14 putting the net have push -- push away, whatever she
15 was doing.

16 But this guy -- when Scott was upstairs, he was
17 just pushing, pushing, and then one of the meat -- he
18 pushed down one of the meat and then he -- the -- who?

19 (Discussion between the interpreter and the
20 witness.)

21 THE INTERPRETER: Lorena? It hit her on the hip,
22 one of the meat.

23 BY MS. CALEM:

24 Q So one of the pieces of ham hit Lorena on the hip?

25 THE INTERPRETER (before translating): On the hip.

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1 And then the other one fell down on Sala's feet.

2 BY MS. CALEM:

3 Q And the other one fell on Sala's feet?

4 THE INTERPRETER (before translating): Yeah,
5 because he wasn't watching, he was just pushing,
6 pushing.

7 BY MS. CALEM:

8 Q So did he seem angry?

9 A Yeah, he was angry. He was just doing it on purpose.

10 Q All right. So he was pushing the meat down fast on
11 purpose without waiting to see if the net was ready; is
12 that correct?

13 A Yes, that is correct.

14 Q Did Becky say anything to him?

15 A No, I didn't hear anything.

16 Q All right. So he's pushing this down fast. Did
17 anybody say anything when the meat fell and one hit
18 Lorena and one fell on Sala's feet?

19 A I don't recall the words Lorena said because she spoke
20 back in English after the meat hit her on the hip, so
21 she conver with-- tried to make conversation with Scott
22 in English --

23 Q She spoke to Scott.

24 A She spoke to Scott in English, but I don't recall
25 translated the words spoken at that moment.

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1 Q All right. Do you remember Lorena's tone of voice?
2 Was she angry? Was she yelling?

3 A Yeah, have -- the tone of voice was anger voice because
4 what Scott was doing.

5 Q All right. And then what happened?

6 A (Speaking Swahili)

7 Q Okay. Let me just stop. What I want to know is -- I
8 know that afterwards you spoke to the union, but on
9 that day, that incident, I want to know, after Lorena
10 spoke to Scott, on that day did anything else happen?

11 A After -- after -- he didn't respond anything. Scott
12 did not respond anything to Lora --

13 THE INTERPRETER: Lora? Lora?

14 MS. CALEM: Lorena.

15 THE INTERPRETER: Lorena.

16 THE WITNESS: And after -- after work, he talk --
17 Scott talk to --

18 THE INTERPRETER: Who?

19 THE WITNESS: (In English) Eudoxio.

20 THE INTERPRETER: Eudoxio.

21 MS. CALEM: Eudoxio. Okay.

22 THE WITNESS: -- and told Eudoxio that he was
23 doing it on purpose because of those two monkey that
24 were there.

25

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1 BY MS. CALEM:

2 Q Okay. Were you there when he told Eudoxio this?

3 A No, I wasn't, but Eudoxio come tell us what he said.

4 Q All right. And do you know where Scott and Eudoxio
5 were when Scott said this?

6 A I don't know where and when they talked about us, but
7 Eudoxio came back and told me what had been spoken.

8 Q Where were you when Eudoxio told you about this?

9 A It was on a break, that was when Eudoxio told me.

10 Q The same day?

11 A The same day, yes.

12 Q So the second break? The next break?

13 A Yeah.

14 Q And was anyone else with you when Eudoxio told you
15 that?

16 A I was with Sala.

17 Q So he told both you and Sala at the same time?

18 A Yes, at the same time.

19 Q Was anyone else there?

20 A (In English) No. (Through interpreter) No, no one
21 else.

22 Q Was this in the break room?

23 A We were going back to the line, you know, changing our
24 clothes, put on our gear.

25 Q So you were going back -- on the way back to the locker

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1 room?

2 A So we were at a place where we put on like a --

3 THE INTERPRETER: Sort of set gear?

4 MS. CALEM: The gear, the coat.

5 THE INTERPRETER: They call gear?

6 That's when that conversation took place.

7 BY MS. CALEM:

8 Q So it was in that location where you change your coat?

9 A (Speaking Swahili)

10 Q Plastic.

11 A It's not a coat. It's a plastic.

12 Q Plastic. Okay. Did Eudoxio say anything else?

13 A Nothing else he added to it.

14 Q So, to be clear, you did not hear Scott use the word
15 monkey?

16 A With my two ear I didn't hear anything, but I was told
17 what he did.

18 Q I understand. This incident where Scott was making
19 these terrible comments, how long did this go on?

20 A I don't remember exact the time, but it took a little
21 bit while, like 15 minute.

22 Q From the beginning to the very end?

23 A Yes, from the beginning.

24 Q After Lorena spoke to Scott, did he stop sending the
25 hams down so quickly?

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1 A Yes, he stop.

2 Q And how much longer did you all keep working on that
3 line until the break after this happened?

4 A (Speaking Swahili)

5 THE INTERPRETER: I've got -- because I'm not
6 understanding.

7 MS. CALEM: Okay. Do you understand my question?

8 THE INTERPRETER: Yeah, I understand.

9 (Discussion between the interpreter and the
10 witness.)

11 THE INTERPRETER: So she is trying to measure the
12 timing. It was after -- now she's recalling it was
13 after the lunch break, going to the last break. So, in
14 there between -- I don't know how many hours it is
15 between a lunch break and the last break. So that's
16 when the conversation took place. So she does [sic]
17 have exact timing or hours it took.

18 BY MS. CALEM:

19 Q So this happened between the lunch break and the last
20 break?

21 THE INTERPRETER (before translating): ...and the
22 last break.

23 THE WITNESS: Yeah, that's what I'm thinking.

24 BY MS. CALEM:

25 Q All right. And do you remember --

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1 MS. CALEM: No problem at all.

2 THE VIDEOGRAPHER: We're now going off the record.

3 It is 12:59.

4 (Lunch recess taken from 12:59 p.m. to 1:54 p.m.)

5 THE VIDEOGRAPHER: Okay. We're back on the

6 record. It is now, let's see, 1:54.

7 BY MS. CALEM:

8 Q All right. We just had our lunch break. It's 1:54.

9 Ms. Nimenya, I just want to remind you that you
10 are still under oath. Do you understand that?

11 A Yes.

12 Q Where we left off, we were talking about the incident
13 that occurred with Scott Genzler in February of 2016,
14 and we had finished talking about the actual incident
15 itself.

16 Was there a supervisor there that day?

17 A No, there wasn't any supervisor that time, but it was a
18 team leader, and that team leader can't do anything
19 about it.

20 Q The next day you spoke to a supervisor, correct?

21 A Yes.

22 Q And was that Russ Hultman?

23 A Yes, that's his name.

24 Q Did Russ call a meeting in his office to talk about

25 what happened?

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1 A Yes, he called -- he called me with the union people
2 around, inside the office.

3 Q And who was in his office? Tell me who was there.

4 A I and Sala. Tom Anderson, he's a union guy. And
5 Thomas Zuraff, and he's a union guy too. And Scott
6 Gonzalez [sic].

7 MS. CALEM: Genzler, yeah.

8 THE INTERPRETER: Genzler. Sorry.

9 THE WITNESS: And David.

10 BY MS. CALEM:

11 Q David Hillberg?

12 A I don't -- I don't recall his last name.

13 Q Was Lorena there?

14 A Yeah, Lorena was there too.

15 Q Was Becky there?

16 A No.

17 Q And at that meeting the next day, did you and Sala
18 explain what had happened?

19 A In the office?

20 Q When you were in Russ's office with Russ.

21 A Yes.

22 Q And did you both speak?

23 A Yes.

24 Q Did Lorena speak?

25 A Yes, she spoke.

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1 Q And did Russ say that Scott's behavior was wrong?

2 THE INTERPRETER: Russ suggest that they should go
3 report to the office on Monday.

4 BY MS. CALEM:

5 Q To the human resources office?

6 THE INTERPRETER (before translating): To the
7 human resource office.

8 BY MS. CALEM:

9 Q Did Russ tell Scott to apologize?

10 A I don't know.

11 Q Do you remember Scott apologizing in that meeting?

12 A No.

13 Q Do you remember Russ saying that what Scott had done
14 was against the company rules?

15 A I don't remember any of that conversation.

16 Q Do you remember anything that Russ said besides that
17 you should go on Monday to human resources?

18 A The only thing that I remember him saying that this
19 case should -- or this incident should be reported in
20 HR office.

21 Q Do you remember how long the meeting in Russ's office
22 lasted?

23 A Like, minutes. It's a minute, but I don't remember how
24 long it took, but it wasn't that long conversation.

25 Q Do you remember if Scott said anything during that

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1 meeting?

2 A They ask me if he said it or if he did what he did, and
3 he accepted.

4 Q He agreed that he did?

5 A Yeah, he agreed that he did it.

6 Q Do you remember if he said anything else?

7 A No, I don't remember anything else.

8 Q Now, the next day you went to human resources, right --
9 or was it Monday?

10 A Yes.

11 Q You and Lorena and Sala went together?

12 A Yes.

13 Q And did one of you ask Lorena to go with you?

14 A We all -- we were supposed to go there, so we all went
15 together.

16 Q Did -- my question was, though, did one of you ask
17 Lorena, come, we're going to go now?

18 THE INTERPRETER: They told Lorena to go with too.

19 MS. CALEM: To go with them.

20 THE INTERPRETER: Yeah, with them.

21 BY MS. CALEM:

22 Q All right. And you went during your break?

23 A Yes.

24 Q Before you left on the break, did you tell your
25 supervisor that you might be back late?

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1 A No, I didn't.

2 Q Before you went on the break, did you tell your
3 supervisor that you were going to go to human resources
4 on the break?

5 A No, I didn't.

6 Q You went to human resources. And did you start filling
7 out a form there?

8 A Yes.

9 Q Did you speak to anybody in human resources when you
10 went in there?

11 A Carrie receive us, and he [sic] give us a paper, a form
12 to fill out of our complaint. The first person who got
13 that form was Lorena.

14 And then Russ showed up at that moment, and then
15 when Russ came, they kicked us out. They say, you guys
16 are coming to accuse -- or reporting someone else.
17 Instead of you being at work right now, you guys are
18 here for reporting incident.

19 MS. CALEM: Let's mark this next in order, please.

20 THE WITNESS: And he gave -- he gave us warnings.

21 MS. CALEM: We're going to get there, yeah.

22 (Exhibit 7 is marked for identification.)

23 BY MS. CALEM:

24 Q Ms. Nimenya, this is Exhibit 7 to your deposition. Do
25 you recognize this?

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1 A Yes, I do.

2 Q Did you fill out the information on this form?

3 A Yes, I did.

4 Q When you were filling this out, were Sala and Lorena
5 also filling out their forms?

6 A Yeah, each individual is writing hers.

7 Q They were writing their forms?

8 THE INTERPRETER (before translating): Yeah.

9 BY MS. CALEM:

10 Q All right. Did anybody else go with you besides Sala
11 and Lorena to human resources?

12 A No.

13 Q And then Russ came into human resources and was looking
14 for you; is that right?

15 THE INTERPRETER: Russ came in a different door
16 and told where they were, and then he started yelling
17 at them, saying, you guys are just leave the line
18 instead of being working right now, and you came to
19 report -- she is call nonsense sort of incident.

20 BY MS. CALEM:

21 Q So he was angry, he was yelling that you should be back
22 to work?

23 A Yeah, he was saying we should be at work, we should go
24 back to work, and he gave us warning.

25 Q And at that time were you late in coming back from your

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1 break?

2 A The break had -- we had -- we went on 15 break, because
3 the break is 15-minute break. We had two minute left
4 for that -- in order that break to -- you know, to end.

5 Q So you think Russ came in after 13 minutes?

6 THE INTERPRETER: She say she doesn't exactly
7 precise the timing. They have -- she said they have
8 camera inside that office. They can go review what
9 time it was when the incident took place, but what she
10 remember is it was during the break time.

11 BY MS. CALEM:

12 Q Did Russ say that the line had stopped production
13 because the three of you were not there?

14 THE INTERPRETER: She doesn't remember him saying
15 that.

16 BY MS. CALEM:

17 Q Now, is it true that under -- according to the employee
18 handbook, you have to tell your supervisor if you're
19 going to come back late from your break?

20 A Yes, I do remember being written in that book and --
21 because the supervisor know the situation and we were
22 waiting for him to give us the update, but he didn't
23 say anything, so -- and then we decide us to -- I mean,
24 to go pursue whatever [inaudible] on break time.

25 Q All right. And when Russ came in, did he speak to

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1 Carrie?

2 A Yeah, they talked themselves separate, and then they came
3 to us and, you know, yelling at us, kicking us out.

4 Q Did Carrie yell at you?

5 A Yes.

6 Q What did Carrie say?

7 A He [sic] said, get out of my office.

8 Q Carrie said, get out of my office? That's your
9 testimony.

10 A Yes. He [sic] said, you can't come here to report on
11 somebody and then leave the line empty, not -- you
12 know, leave the line without anybody on it.

13 Q So, if the line stops working, that costs the company
14 money, right?

15 A Yes, I do.

16 Q Now, did anybody say to you at that time you could come
17 back later to finish your reports?

18 A No.

19 Q Did you go back later to finish your report?

20 A After we get out of the office, since we had a warning,
21 you know, upon us, Scott was rejoicing, saying, you
22 went down there to report me. Instead of me getting in
23 trouble, you just got warnings.

24 Q When did you get the warning?

25 A It was the same day, the same Monday when we went to

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1 many times Sala happen. Any time Sala take the report
2 to there, she get -- she was in trouble. So I'm scared
3 to go to report to Scott about these issues, because
4 [inaudible] you in trouble.

5 BY MS. CALEM:

6 Q Okay. My question was, did anybody ever make racist
7 comments after Scott Genzler?

8 A No, I haven't been treated like -- since the incidence
9 with Scott.

10 Q All right. Now, who is it who has shown you these
11 pictures?

12 A Becky.

13 Q Becky Kaufman has shown you these pictures?

14 A (In English, without translation of question) She
15 shows on line me and Sala and the other right on line.

16 Q She shows you and Sala --

17 A (In English, without translation of question) And
18 another person.

19 Q And one other person?

20 A Yes.

21 Q And what does she show you?

22 A She showed us a porn video on the line while we are
23 work --

24 Q While you're working?

25 A (In English) Yes. Yeah, on the line.

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1 A (Speaking Swahili)

2 Q Just a yes or no.

3 THE INTERPRETER: No. It's no, she hasn't.

4 BY MS. CALEM:

5 Q I understand the reason was you thought that you would
6 get disciplined, but you did not talk to human
7 resources.

8 A Yes.

9 Q Did a supervisor ever see Becky doing this?

10 A No.

11 Q Did you tell a supervisor about it?

12 A No.

13 Q Did you tell a lead, like Lisa Christion, about it?

14 A No.

15 Q All right. Did anyone at Smithfield ever tell you that
16 it was --

17 THE VIDEOGRAPHER: Elias, you're making a lot of
18 noise with that. Okay. Thank you.

19 MS. CALEM: Well, strike that.

20 BY MS. CALEM:

21 Q All right. Now, after this incident with Scott, you
22 said you've been treated differently.

23 A Yes.

24 Q Tell me how you have been treated differently.

25 THE INTERPRETER: She said you will found, like, a

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1 job which was supposed to be, like, for four people or
2 over more than four people. They would give her do
3 such job by herself.

4 BY MS. CALEM:

5 Q Are you talking about the Arby's work?

6 THE INTERPRETER: Arby's?

7 MS. CALEM: Arby's.

8 THE WITNESS: (In English) Arby's and ribs, yes.

9 (Through interpreter) Yes.

10 BY MS. CALEM:

11 Q Okay. Tell me about the Arby's work. Is that where
12 you pick up the ribs out of a vat?

13 A (In English, without translation of question) And put
14 on the table.

15 Q And put it on the table?

16 A (In English, without translation of question) Yes.

17 Q And isn't it true sometimes people do that by
18 themselves?

19 A (In English) No, no.

20 (Speaking Swahili)

21 (Through interpreter) It's usually two people put
22 on the table and then two other people hang it on a --
23 on a --

24 MS. CALEM: On a rack?

25 THE INTERPRETER: On the rack, yeah.

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1 BY MS. CALEM:

2 Q And that's work that is not on the production line,
3 right?

4 THE INTERPRETER: She doesn't -- she -- I try to
5 explain to her is [inaudible] of production, but she
6 said it is production because he -- she is in the
7 company, so she thinking --

8 BY MS. CALEM:

9 Q Oh, I understand that. But is it a moving production
10 line?

11 A It's not -- it's not like a const -- it's not something
12 I would define by doing, like, every day like the other
13 production, like where the people stand and do the same
14 thing. So this is different. It sometime comes like
15 we will do it for a month, you know, do the same job in
16 that month.

17 Q Okay. So if other employees said that they had done it
18 by themselves, would you say that's not true?

19 THE INTERPRETER: She said if -- all the time she
20 been there, she's been doing -- she's seen people, more
21 than one people doing it. So if somebody say she's
22 doing it -- or he/she doing it by himself, it would be
23 a lie. And then she was gone, so...

24 BY MS. CALEM:

25 Q Okay. Now, when were you asked to do this by yourself?

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1 A Two weeks ago.

2 Q Two weeks ago.

3 THE INTERPRETER (before translating): Yes.

4 BY MS. CALEM:

5 Q Any other time?

6 A Yeah, it happen quite often, but I can't recall the day
7 and the time.

8 Q Well, part of what we're here to do is to figure out
9 how you were treated differently. So if you're saying
10 this is the way, I need to know when it happened.

11 Do you have an estimate of how many times this has
12 happened?

13 A Like, three times, by estimating.

14 Q Three times.

15 THE INTERPRETER (before translating): Yeah.

16 BY MS. CALEM:

17 Q And when was the first time? Was it 2016? 2017?

18 A 2017.

19 Q And who assigned you to do this work?

20 A Lisa.

21 Q Lisa Christion?

22 A (In English, without translation of question) Yes.

23 Q Okay. And is this the work where the meat is in a big
24 vat and you pick it up with a hook?

25 A Yes.

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1 Q Are there different size hooks that you can use?

2 A There is two kind. One is a small hook. When the vat
3 is still full, so you use the little ones. And then
4 when it's gone -- you know, has gone down, you use the
5 big hook.

6 Q The bigger hook --

7 THE INTERPRETER (before translating): Yeah.

8 MS. CALEM: -- to reach deeper in?

9 THE INTERPRETER (before translating): To reach
10 deeper in, yeah.

11 BY MS. CALEM:

12 Q Okay. So the first time was in 2017. Do you remember
13 when in 2017, what month?

14 A I don't remember the month.

15 Q Okay. When was the second time?

16 THE INTERPRETER: She said she tell you -- like
17 she said, she tell you three times. Two times was back
18 in 2017, she doesn't remember exactly the day or month,
19 but the third time is two weeks ago, is not that long
20 ago.

21 BY MS. CALEM:

22 Q And who assigned you two weeks ago?

23 A Lisa send me there.

24 Q Okay. And how -- on the first occasion, how long were
25 you doing it for?

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1 A Only two days.

2 Q You did it two days by yourself?

3 A Yes.

4 Q So two days in 2017. All day, two days.

5 THE INTERPRETER: It was, like, one day one time
6 like today, she was doing it by herself, and then the
7 following day, like after a month, they put her back on
8 the same area by herself. But it wasn't like two days
9 straight, no. It's separate days.

10 BY MS. CALEM:

11 Q And when you were put on that, how many hours did
12 you -- were you assigned to do that work?

13 A Because it was -- it was, like, full vats, it took me
14 about three hours because I was myself.

15 Q So you're not -- if you're alone, you're not expected
16 to do as much as four people, are you?

17 A It requires me to work faster, so there are people who
18 is doing the different -- the other people is doing the
19 different job, so the line might keep going. So it
20 requires me to work faster.

21 Q Well, there's no moving production line, right? It's
22 just a big vat of meat and you put it on the table at
23 your own pace; isn't that right?

24 THE INTERPRETER: She said, yes, there would be
25 two people pulling, taking those meat from --

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1 Where? Where they are at?

2 THE WITNESS: (In English) Table.

3 THE INTERPRETER: Table to what?

4 THE WITNESS: (In English) Tree.

5 THE INTERPRETER: To the tree? Hanging them on a
6 tree?

7 So she is required to make sure those people are
8 not standing or not stopping doing what they doing.

9 THE WITNESS: That means I'm the one provide them
10 or give them the work of set those meat on the table.
11 So I have to work faster in order for them not standing
12 or taking any break.

13 BY MS. CALEM:

14 Q And who told you that?

15 A Lisa told me. Because if they miss or not working and
16 then she sees it, she will come and yell at you.

17 Q Okay. So this happened three times in 2017 and once in
18 2018?

19 THE INTERPRETER (before translating): Two time in
20 2017 --

21 MS. CALEM: Right. And one time --

22 THE INTERPRETER: Yes.

23 MS. CALEM: -- in 2018.

24 THE INTERPRETER: She say, yeah, two time in 2017.

25 Because she wasn't pregnant, she tolerate it, but --

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1 MS. CALEM: She what?

2 THE INTERPRETER: She kind of hang -- hanging on
3 it, do whatever they ask to do.

4 But at this time she was pregnant and they make
5 her do the same job while she pregnant and then she is
6 in more --

7 And then she said the other line had nine people,
8 but they had her do the job, which was required -- the
9 job which required, like, four people they had her
10 doing by herself. So it hurt her to the point where
11 she feel like she got treating, like, different,
12 different than the other people.

13 BY MS. CALEM:

14 Q So two weeks ago how -- when she was assigned -- when
15 you were assigned to do this, how many hours did you do
16 it?

17 THE INTERPRETER: They did -- they did it -- she
18 said she doesn't remember if it was 6, 9 or 8 hours.
19 It was in that range, between 8 -- 6, 9 -- 6.9 and the
20 8 hours on that day.

21 MS. CALEM: Two weeks ago.

22 THE INTERPRETER (before translating): Two weeks
23 ago, yeah. She didn't change. She was there the whole
24 shift.

25 MS. CALEM: Okay. And she said something about

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1 ribs earlier. Is there another type of job she was
2 made to do by herself?

3 THE INTERPRETER: She said the ribs is the same
4 job as the one how she describe the first time where
5 they get them from the vat, put on the line, and then
6 they took -- the two other guy would take those ribs
7 and hang them on the tree.

8 So they -- last time she did it, she was by
9 herself while there was nine people working on
10 different other line, so she tried to ask supervisor
11 about it and see if the supervisor may give her one
12 other person to help her, but the supervisor say, it's
13 fine, you're okay, you can do it.

14 BY MS. CALEM:

15 Q Well, do you have any work restrictions now?

16 A I don't have a work restriction, but I just wanted to
17 know why they have been treating like that.

18 MS. CALEM: All right. So, just so I'm clear, the
19 ribs is the same thing she was talking about before?

20 THE WITNESS: (In English) Yes.

21 (Through interpreter) Yeah, it's the ribs, but
22 they are one meat, so -- but it's the same sort of
23 routine.

24 BY MS. CALEM:

25 Q So it's two times in 2017, one time in 2018?

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1 A Yes.

2 Q Any other times?

3 A No.

4 Q How else have you been treated differently?

5 THE INTERPRETER: She said she have seen that much
6 any -- any changing, but she is thinking -- she,
7 herself, think because this have been publicized, she
8 thinking how the other people receive her -- or see her
9 in the company, but she don't have anybody to point it
10 out, like this person, you know, this and this to -- or
11 this person say this or this person try to do this to
12 her.

13 MS. CALEM: Okay. But with respect to her work,
14 is there any other way she's been treated differently
15 since the Scott Genzler incident?

16 THE WITNESS: No.

17 MS. CALEM: Will you please mark this next in
18 order.

19 (Exhibit 11 is marked for identification.)

20 BY MS. CALEM:

21 Q Okay. Exhibit 11. Exhibit 11 is a document that we
22 received from you in this case, and it's a written
23 statement that I think you wrote. Is that accurate?

24 A (In English) Yes. (Through interpreter) Yes, I wrote
25 it.

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1 BY MS. CALEM:

2 Q Okay. We're back on the record after a short break.

3 Ms. Nimenya, you're still under oath.

4 We've put before you what's been marked as

5 Exhibit 12 to the deposition. And it's a group of

6 photographs that have been stapled together, and this

7 was in the group of documents that we received from

8 you.

9 Have you seen these photographs before?

10 You can look through them if you'd like.

11 A I know the second one, on the second page.

12 Q The second one?

13 THE INTERPRETER (before translating): Yeah, the

14 second page.

15 BY MS. CALEM:

16 Q All right. What else?

17 THE INTERPRETER: She not -- she said she don't

18 know -- she only know this --

19 THE WITNESS: (Speaking Swahili)

20 (Through interpreter) And the one on page 245

21 or -- sorry. 245.

22 MS. CALEM: The one on 245, she knows what that

23 is.

24 THE INTERPRETER: Yeah.

25 THE WITNESS: (In English, prior to any

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1 translation) 245 -- 241 and 245.

2 MS. CALEM: Okay.

3 THE WITNESS: And 247.

4 (In English) So 247, I don't know about.

5 THE INTERPRETER: She does not -- she is mistaken.

6 247 she doesn't know.

7 BY MS. CALEM:

8 Q Okay. So the rest of them you've never seen before?

9 A Yeah, the only -- the 2 --

10 (Speaking Swahili)

11 The 241 and the 245, those two I seen -- yeah,
12 245. I seen those two, but the other ones I haven't
13 seen them.

14 Q Okay. So 241 and 245, let's look at those.

15 Do you know who took these pictures?

16 A (In English) I did.

17 THE INTERPRETER: You did?

18 THE WITNESS: (In English) Yeah.

19 (Through interpreter) I did.

20 BY MS. CALEM:

21 Q You took these pictures?

22 A (In English, without translation of question) Yes.

23 Q While you were at work?

24 A (In English) Yes.

25 Q Did you have permission to take these pictures?

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1 A (In English) Yes.

2 Q From who?

3 A (In English) EEOC.

4 THE INTERPRETER: Who?

5 THE WITNESS: (In English) EEOC.

6 (Through interpreter) EOC [sic].

7 BY MS. CALEM:

8 Q Did anyone from Smithfield give you permission to take
9 these pictures?

10 A No.

11 Q Do you know that it is against the work rules to take
12 pictures on the production floor?

13 A After these -- the EOC [sic] call me -- tell me
14 they were -- they were not telling the truth, so the
15 EOC [sic] convince me to take pictures.

16 Q Who in the EEOC told you to take pictures?

17 A Ruby.

18 Q Ah, okay. What does this picture show that's on 241?

19 A So that person that is behind -- Sala is in the front.
20 So the guy behind Sala is the guy who harassed her
21 before. And they tried to separate him. They took
22 away that guy, not working with him, but suddenly they
23 bring back that guy.

24 THE INTERPRETER: So she had to take picture of
25 him standing behind Sala for some reasons.

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1 THE INTERPRETER (before translating): Yeah.

2 BY MS. CALEM:

3 Q Do you recall that there was an investigation of that
4 incident by human resources?

5 A Yeah, they -- since I started -- I started before Sala,
6 so they -- they call me downstairs in HR like a witness
7 to go there to say what I know.

8 Q All right. And did you see Juan point to his penis to
9 Sala?

10 A No, I didn't see. (In English) Sala told me.

11 Q Okay. And you went down to human resources and you
12 spoke to Carrie and Rick Stokke?

13 MS. CALEM: Is that how you say that?

14 MR. REED: Stokke.

15 MS. CALEM: Rick Stokke?

16 THE WITNESS: (In English) Yes. (Through
17 interpreter) Yes, I tell them.

18 BY MS. CALEM:

19 Q Okay. And did you tell them at that time that you had
20 not seen Juan do anything to Sala but Sala told you
21 about it?

22 A Yes, they call me, and I tell them that Sala told me
23 the incident, the whole story.

24 Q Did you tell human resources at that time that Juan
25 made a motion to you but you think he was joking? This

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1 was a couple of years before.

2 A Yeah, he -- I told them that this guy, this man is --

3 THE INTERPRETER: I forgot his name.

4 MS. CALEM: Juan.

5 THE WITNESS: -- Juan try a couple times to seduce
6 me sort of -- I mean, to convince me to touch him, but
7 I did not complain about it. That was prior the
8 incident with Sala. I told him to stop.

9 BY MS. CALEM:

10 Q Well, isn't it true that you told them that he just
11 pointed at his penis?

12 A Yeah, he was telling me to touch his penis.

13 Q In words, he said, "Yvette, touch my penis"?

14 A It was a demonstration.

15 Q He was just pointing at his penis?

16 A (In English) Yeah. (Through interpreter) It was
17 demonstration, hand gesture.

18 Q And I have notes from human resources that say that he
19 joked -- you told them he jokes around a lot but it
20 doesn't bother you. Is that accurate?

21 THE INTERPRETER: She said that kind of habit or
22 that kind of attitude is not appropriate at the
23 workplace. If he is joking on that, in the future, in
24 the near future, he might meet somebody who doesn't
25 take a joke as a joke, so he need to stop. So I tried

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1 to stop him. That's what I told them, that I don't
2 know if is a joke or is real attitude or --

3 BY MS. CALEM:

4 Q Okay. Didn't you tell human resources you did not have
5 a problem working with Juan?

6 A Yeah, because of his word, I didn't like his
7 reaction -- or actions. Every time, I tried to stop
8 him. But I didn't like his actions.

9 Q But didn't you tell human resources he had done this to
10 you once?

11 A I don't remember if I said it once or more than once.
12 I don't remember the whole thing.

13 Q Okay. Well, in 2014 you're in human resources talking
14 to Carrie and Monica, right?

15 A Yes.

16 Q And I have notes here that they wrote, and it says,
17 "Yvette said Juan jokes a lot on the line but never
18 said touch his privates. Yvette does not have a
19 problem working with Juan, did not take anything
20 serious or be offended."

21 Did you say that to human resources?

22 A Since they were writing what I was saying, maybe they
23 didn't write correct what I was saying, because they
24 did not read that to me what they had written down. So
25 that's not how accurate I said it.

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1 Q So you did not tell them that?

2 A I told them that he's telling me to touch his penis,
3 but I also tell them I don't know if he is joking or if
4 he is not joking.

5 Q In fact, you asked Juan for a ride home a couple of
6 times, didn't you?

7 A Not even once.

8 Q So if somebody said they saw you going in Juan's car,
9 that would not be true?

10 A I remember him ask me ride. He had a problem with a
11 car. But I had my own car. He was asking me to give
12 him a ride.

13 Q To give him a ride.

14 THE INTERPRETER (before translating): Yeah.

15 BY MS. CALEM:

16 Q Did you give him a ride?

17 A Yeah, I did give him a ride.

18 Q How many times?

19 A It was like a month that I was taking him from work
20 to -- and to drop him to his house, but not me taking
21 him to work. So he would find a way to get to his --
22 or to work. Then I would drop him off after work.

23 Q For about a month?

24 A After -- because he didn't have a car. After he -- he
25 broke up with his girlfriend, he started ask me to give

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1 him a ride and to drop him off to his place.

2 Q Then you did that for maybe a month?

3 A Yeah, because he was telling me that he was going to
4 buy his own car after a month.

5 Q Do you -- did you ever tell Juan that Sala was lying
6 and that you apologized to him because Sala was lying?

7 A No, we talk anything similar like that.

8 Q And you never said that to anybody else, that Sala had
9 lied about Juan to get him into trouble?

10 A I never said that Sala lied, or mention such thing.

11 Q Okay. And then after Sala made this complaint, do you
12 know how it was resolved in human resources? Were you
13 there when they decided how to resolve it?

14 A I wasn't there. I don't know.

15 Q All right. And when Juan made this gesture to you
16 earlier, you did not tell human resources about it,
17 did you?

18 A I didn't report anything to the HR or even to my
19 supervisor, but I told him in person, like, verbally
20 stop doing it.

21 Q And he stopped doing it?

22 A Yeah, they change him there. I wasn't close to him, so
23 they -- they block Sala, you know, close to him,
24 working close to him. Then I was changed.

25 Q My question was, after you told Juan "don't do that,"

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1 did he stop doing this?

2 A He didn't stop.

3 Q He didn't stop doing it to you?

4 A No.

5 Q How many times did he do that to you?

6 A So many times. Because I wasn't used to, you know,
7 bring -- take all the complaint -- every time -- all
8 the -- every single complaint down to HR, so I keep
9 quiet, I keep to myself.

10 Q But didn't you tell human resources he did it to you
11 once or twice?

12 A In the human resource they ask me, like, have you
13 done -- have he done that to you. They ask -- they
14 say -- yes, I said yes. Then they ask me how many
15 times, like the way we are discussing here. So it was
16 like they didn't go deeper into details, like ask me or
17 discovering what is his behavior.

18 Q Well, I have notes here that say you told them he did
19 it once or twice. You don't remember that?

20 A It's been long time, so I don't remember what I said.

21 THE INTERPRETER: It's been four years, she said.

22 THE WITNESS: So I don't remember exactly what was
23 said.

24 BY MS. CALEM:

25 Q And did you give Juan rides home before or after this

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1 investigation with human resources?

2 A This situation was over. That's when he asked me for
3 the ride.

4 Q What situation was over, the investigation?

5 THE INTERPRETER (before translating): The
6 investigation was over, yeah.

7 BY MS. CALEM:

8 Q And then you gave him rides?

9 A Yes.

10 Q Other than Sala, do you know of anybody else who has
11 complained about Juan making that gesture to them?

12 A No, I don't know anybody else.

13 Q Other than this incident that was investigated in 2014,
14 do you know of Juan doing anything else to Sala?

15 A No, I don't. I don't remember having -- I don't know
16 anybody else.

17 Q Did Sala ever tell you that Juan did anything else to
18 her besides on that occasion in 2014 when he pointed to
19 himself?

20 A No.

21 Q The incident with Becky where she said "fuck you," do
22 you know if Becky was suspended?

23 A They didn't do anything to her.

24 Q How do you know that?

25 A I know because I saw her coming to work as regular --